

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CHARLES ALLEN

v.

UNITED STATES OF AMERICA

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: CIVIL NO. CCB-13-2354
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MEMORANDUM AND ORDER

On August 7, 2013, federal prison inmate Charles Allen filed a letter construed as a motion under 28 U.S.C. § 2241 seeking additional credit on his sentence for time served in pretrial detention. (Pet., ECF No. 1). The sentence, 180 months under 18 U.S.C. § 922(g)(1) and § 924 (e), was imposed by now-retired Judge Frederic N. Smalkin of this court. The United States was directed to respond and has done so in a response and memorandum in support of a motion to dismiss, motion for summary judgment, or in the alternative, motion to transfer venue. (Mot., ECF No. 5). Allen has not replied.

It appears from a review of the records submitted by the government that Allen's custodian, the proper defendant in this suit, is located in Leavenworth, Kansas, where Allen is currently housed. There is no need to transfer the case, however, because it also appears that Allen has not exhausted his administrative remedies with the Bureau of Prisons. Accordingly, neither this court nor the District of Kansas has jurisdiction to decide the merits of the case.¹ See *McClung v. Shearin*, 90 F. App'x 444, 445 (4th Cir. 2004); *Carmona v. U.S. Bureau of Prisons*, 243 F.3d 629, 634 (2d Cir. 2001); *Brown v. Smith*, 828 F.2d 1493, 1495 (10th Cir. 1987).

It is hereby **ORDERED** that:

1. This case is **Dismissed without prejudice** for lack of jurisdiction;
2. The Clerk shall **CLOSE** Civil Action No. CCB-13-2354; and

¹ The government contends that Allen received all the credit to which he was entitled. (Mem. at 5, ECF No. 5-1).

3. The Clerk shall SEND a copy of this Memorandum and Order to Allen and counsel of record.

December 31, 2013
Date

/s/
Catherine C. Blake
U.S. District Judge